

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KIM D. JONES,	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
	:	NO. 12-6320
CAROLYN W. COLVIN,	:	
Acting Commissioner of Social Security,¹	:	
Defendant.	:	

ORDER

AND NOW, this 18th day of June, 2013, upon independent consideration of Plaintiff's Brief and Statement of Issues in Support of Request for Review [Doc. No. 10], Defendant's Response [Doc. No. 12], Plaintiff's Reply [Doc. No. 13], and the administrative record, and upon review of the Report and Recommendation ("R&R") of United States Magistrate Judge Jacob P. Hart [Doc. No. 14], to which there were no objections filed by either party, it is hereby

ORDERED as follows:

1. The Report and Recommendation [Doc. No. 14] is **APPROVED** and **ADOPTED**;
2. Plaintiff's request for review is **GRANTED in part**;²
3. This matter is **REMANDED** to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings consistent with the R&R;³ and

¹ On February 14, 2013, Carolyn W. Colvin became Acting Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d), Carolyn W. Colvin should be substituted for Michael J. Astrue as the defendant in this suit.

² To the extent Plaintiff seeks summary judgment in her favor, the request is **DENIED**.

³ Magistrate Judge Hart concluded—and this Court agrees—that the Administrative Law Judge ("ALJ") erred in considering the effect of Ms. Jones's obesity on her residual functional capacity ("RFC"), because the ALJ incorrectly assumed that Ms. Jones weighed 215 lbs., when in fact, at the time of the administrative hearing, Ms. Jones weighed between 300 and 315 lbs. As recommended, remand is appropriate for further discussion and development of the effect of Ms. Jones's obesity on her RFC.

4. The Clerk of Court is directed to mark this case **CLOSED** for all purposes.

It is so **ORDERED**.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE

To that end, Judge Hart also suggested that it might be appropriate to obtain some additional evidence from a medical expert, to the extent that the Agency concludes that Ms. Jones's present abilities could shed light on her abilities at the time of the ALJ's decision. Judge Hart also reminds Ms. Jones that her failure to cooperate with medical examinations could leave the ALJ unable to conclude that Ms. Jones has proved any greater limitations than those already assessed.